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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-----------------------|---------------------|------------------|
| 10/089,440 | 05/03/2002 | Andrew Nicholas Dames | 604-631 | 6931 |
| 23117 | 7590 | 05/19/2005 | EXAMINER | |
| NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203 | | | LA, ANH V | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2636 | |

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,440

Applicant(s)

DAMES ANDREW ET AL

Examiner

Anh V. La

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 9, 10, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Litman.

Regarding claim 1, Litman discloses a magnetic tag for storing data comprising at least one magnetic element 31-41 configured such that the data is stored by reference to a combination of two or more characteristics associated with each element (figure 2, column 10, lines 1-20), wherein two or more bits of data are stored by the element (col. 9, line 40- col. 10, line 55).

Regarding claim 2, Litman discloses a first one of the characteristics being used to distinguish each element and a second one of the characteristics being used to store data (col. 10, lines 1-55).

Regarding claim 3, Litman discloses one or more of the characteristics being used to store additional data (col. 10, lines 1-55).

Regarding claim 4, Litman discloses two or more characteristics include one or more selected from element coercivity, bias, orientation, amplitude response of an element, permeability (col. 10, lines 1-55).

Regarding claim 6, Litman discloses a plurality of magnetic elements 31-41, each of elements being disposed in a different orientation and each having a magnetic bias member capable of assuming a plurality of states (col. 10, lines 1-55).

Regarding claim 7, Litman discloses the orientation of each of the elements being selected from a set of possible orientations (col. 10, lines 1-55).

Regarding claim 9, Litman discloses one or more of the elements being arranged to exhibit a different amplitude (col. 10, lines 1-55).

Regarding claim 10, Litman discloses the effective dimensions of the elements being different from that of other elements to produce a variation in amplitude response (col. 10, lines 1-55).

Regarding claim 14, Litman discloses a plurality of magnetic element with a different orientation for each of the elements (col. 10, lines 1-55).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Litman in view of Yamashita.

Regarding claims 8 and 15, Litman discloses all the claimed subject matter as set forth above in the rejection of claim 6, and further discloses a plurality of magnetic element with a different orientation for each of the elements (col. 10, lines 1-55) (claim

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15), but does not disclose one or more of the elements being arranged to exhibit a different coercivity (claims 8 and 15). Yamashita teaches the use of one or more of the elements being arranged to exhibit a different coercivity (abstract). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include one or more of the elements being arranged to exhibit a different coercivity to the tag of Litman as taught by Yamashita for the purpose of storing additional data.

5. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Litman in view of Yamashita as applied to claim 8 above, and further in view of Hibi.

Regarding claims 11-13, Litman as modified by Yamashita discloses all the claimed subject matter as set forth above in the rejection of claim 8, and further discloses the magnetic elements being disposed in a different orientation (Litman, fig. 2) and each having a coercivity (Yamashita, abstract) (claims 11-12), but still does not disclose a plurality of intersecting magnetic elements (claims 11-12) and the intersecting elements being arranged such that they do not bisect one another. Hibi teaches the use of a plurality of intersecting magnetic elements and the intersecting elements being arranged such that they do not bisect one another (see figures 1-4). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a plurality of intersecting magnetic elements and the intersecting elements being arranged such that they do not bisect one another a function indicator to the tag of Litman (modified by Yamashita as taught by Hibi for the purpose of effectively to identifying the elements and to store data.

Answers to Remarks

6. Applicant's arguments filed on December 20, 2004 have been fully considered.

Applicant has argued that Litman does not disclose "two or more bits of data are stored by the or each element". This argument is not persuasive. Litman clearly discloses "two or more bits of data are stored by the or each element" (column 9, line 40- column 10, line 55). Applicant has disclosed in the specification, page 2, line 10-32, page 4, lines 5-32, page 7, lines 20-30, and page 11, lines 15-33, elements being angled at various specific angles, different widths of individual elements, and different glass-coating materials of the elements provide two or more bits of data being stored by the or each element. Litman clearly teaches the use of magnetic elements being angled at various specific angles, different widths of individual elements, and different glass-coating materials of the elements (see column 9, line 40- column 10, line 55).

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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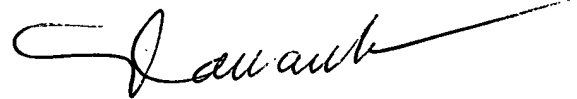
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh V. La whose telephone number is (571) 272-2970.

The examiner can normally be reached on Mon-Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANH V. LA
PRIMARY EXAMINER

Anh V La
Primary Examiner
Art Unit 2636

AI
May 13, 2005